

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 10 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

SAGAR SPRINGS PVT. LTD.

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Appearance:

MR MANISH R BHATT for Petitioner  
SERVED for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

At the instance of the Revenue, the following question is referred to this Court under Section 256 (1) of the Income Tax Act, 1961 :-

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in

holding that the cost of the assets should not be reduced by the amount of subsidy received by the assessee for the purpose of calculating the depreciation and investment allowance ?"

2. The Tribunal decided the controversy following the decision of this Court in the case of CIT vs. Grace Paper Industries Pvt. Ltd. reported in (1990) 183 ITR 591. This case is also covered by the decision of the Apex Court in the case of CIT vs. P.J.Chemicals, reported in 210 ITR 830. Hence, the question is required to be answered against the Revenue and in favour of the Assessee. Accordingly, we answer the question in favour of the Assessee and against the Revenue. This reference is disposed of accordingly with no order as to costs.